



County of Los Angeles CHIEF EXECUTIVE OFFICE

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WILLIAM T FUJIOKA
Chief Executive Officer

July 11, 2011

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To: Mayor Michael D. Antonovich
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Supervisor Mark Ridley-Thomas
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Supervisor Don Knabe

From: William T Fujioka
Chief Executive Officer

MOTION TO SEND A FIVE-SIGNATURE LETTER OPPOSING AB 1178 TO ASSEMBLY MEMBERS FIONA MA AND GILBERT CEDILLO, THE COUNTY'S LEGISLATIVE DELEGATION, SENATE PRESIDENT PRO TEM DARRELL STEINBERG, ANY APPROPRIATE ASSEMBLY AND SENATE COMMITTEES, AND THE GOVERNOR (ITEM NO. 36-C, SUPPLEMENTAL AGENDA OF JULY 12, 2011)

Item No. 36-C on the July 12, 2011 Supplemental Agenda is a motion by Supervisors Knabe and Antonovich to send a five-signature letter opposing AB 1178 (Ma), in its current form, to Assembly members Fiona Ma and Gilbert Cedillo, the County's Legislative Delegation, Senate President Pro Tem Darrell Steinberg, any appropriate Assembly and Senate Committees, and the Governor.

AB 1178 (Ma), as amended on June 22, 2011, would prohibit a city or county, including by an ordinance enacted by initiative by the voters of a city or county, from restricting or limiting in the importation of solid waste into a privately owned solid waste facility in that city or county based on the place of origin, except as specified.

AB 1178 includes language indicating that it does not: 1) require a privately owned solid waste facility or privately operated solid waste facility to accept solid waste from outside the city or county where the facility is located; 2) allow a privately owned solid waste facility to abrogate a written disposal agreement guaranteeing permitted capacity to a host jurisdiction, including a regional agency; and 3) prevent a city or county from exercising its land use authority, including making a zoning, permitting, or other land use determination.

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Existing law authorizes a city or county to assess special fees of a reasonable amount on the importation of waste from outside of the county to publicly owned or privately owned facilities. Under Planning and Zoning Laws, cities and counties are required to adopt a general plan that includes seven mandated elements (land use, circulation, housing, conservation, open space, noise, and safety). It also requires cities and counties to adopt zoning ordinances regulating, for example, the use of buildings, structures, and land.

AB 1178 would prohibit a city or county from restricting or limiting the importation of solid waste into a privately owned solid waste facility in that city or county based on the place of origin, including by an ordinance enacted by initiative by the voters of a city or county. The Department of Public Works (DPW) indicates that AB 1178 was introduced in response to Measure E, which is a 1984 Solano County initiative that limits the amount of solid waste imported into Solano County to a maximum of 95,000 tons per year. AB 1178 would essentially nullify Measure E. According to DPW, AB 1178 takes away the local land use authority from local governments to restrict waste at certain privately owned solid waste facilities based on its origin. Local governments have a clear and obvious need for established disposal facility watershed restrictions for a variety of reasons, including preserving local or in-County disposal capacities, reducing traffic impacts on communities, and in consideration of other site-specific factors that are in the best interest of the County and its constituents.

The Department of Public Works states that it is difficult to determine the level of impact on the net flow of waste into or out of the County since it largely depends on market conditions which are beyond the County's control. Increases in the importation of waste may accelerate the usage of in-County landfills, thereby reducing their anticipated life spans. Furthermore, an increase in this rate of importation may, in certain situations, contribute to increases in truck traffic, congestion and pollution to the detriment of local communities.

In addition to violating local land use authority, DPW states that AB 1178: 1) has vaguely phrased exemptions from the mandate that will likely create conflict among various parties leading to litigation; 2) creates an obstacle to solid waste management planning; and 3) uses statewide application of law to address a specific local matter. DPW recommends that the County oppose AB 1178.

The Department of Regional Planning (DRP) indicates that the department issues conditional use permits to landfills in the unincorporated areas of the County, such as Sunshine Canyon and Lancaster landfills. Currently, DRP may impose conditions addressing solid waste that originates from outside of the community in addition to assessing special fees. DRP indicates that AB 1178 would eliminate this existing

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flexibility in the County's land use permitting process. On the other hand, DRP states that since the County is one of the exporters of solid waste to other areas, AB 1178 could potentially benefit the County as a whole since our landfill capacities are very limited. Despite this, DRP indicates that AB 1178 does violate existing Board policy with respect to local control and land use decision making authority. DRP also recommends that the County oppose AB 1178.

AB 1178 is supported by numerous entities, including: Burrtec Waste Industries; California Association of Sanitation Agencies; Commercial Fleet Services, Inc.; Fremont Recycling and Transfer Station; and Central Contra Costa Solid Waste Authority. The measure is opposed by numerous entities, including: California Resource Recovery Association; Californians Against Waste; League of California Cities; Los Angeles County Integrated Waste Management Task Force; Orange County; Solid Waste Association of North America; Northern California Recycling Association; Sierra Club California; and StopWaste.org.

AB 1178 passed the Senate Environmental Quality Committee by a vote of 4 to 0, as amended, on July 6, 2011. The amendments taken in Committee are not in print yet. The measure is currently in Senate Appropriations Committee awaiting a hearing.

On July 8, 2011, the California State Association of Counties (CSAC) reported that after significant negotiations, the author agreed to accept CSAC's suggested amendments to address the effect of the bill on local governments. The Sacramento advocates have confirmed with the author's office that amendment language will make changes to the local control provisions. Committee staff indicates that amendment language is still being worked out with the author's office. When the amendments become available, this office will work with DPW and DRP to review proposed language for impact and assess the County's position.

The motion to send a five-signature letter in opposition to AB 1178 is consistent with existing Board policy to oppose legislation that: 1) infringes upon county board of supervisors' local land use decision-making authority; and 2) would constitute State unfunded land use and general plan related mandates on local governments.

WTF:RA
MR:GA:LY:er

c: Executive Office, Board of Supervisors
County Counsel
Department of Public Works
Department of Regional Planning